



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 26, 2005

Ms. Pauline Small  
City Secretary  
City of Webster  
101 Pennsylvania Avenue  
Webster, Texas 77598

OR2005-03545

Dear Ms. Small:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 222861.

The City of Webster (the "city") received a request for copies of the "mailing labels from [the] water bill address book." You state that some of the requested information has been provided to the requestor, but claim that some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 182.052 of the Utilities Code provides that "a government-operated utility may not disclose personal information in a customer's account record . . . if the customer requests that the government-operated utility keep the information confidential." Util. Code § 182.052(a). Section 182.052(b) provides that a

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

customer may request confidentiality by an appropriately marked form provided under section 182.052 (c)(3) or any other written request for confidentiality. "Personal information" under section 182.052(a) includes an individual's address. *Id.* § 182.051(4); *see also* Open Records Decision No. 625 (1994) (construing statutory predecessor). However, we note that a post office box number does not constitute an "address" for purposes of section 182.051. We also note that water service is included in the scope of utility services covered by section 182.052. Util. Code § 182.051(3).

You assert that the submitted information contains the addresses of water service customers who have requested under section 182.052(b) to keep their addresses confidential. None of the exceptions in section 182.054 appears to apply to the submitted information. *See id.* § 182.054 (six exceptions to confidentiality under section 182.052). Therefore, pursuant to section 552.101 of the Government Code in conjunction with section 182.052 of the Utilities Code we agree that the department must withhold the addresses of those customers who elected to keep their addresses confidential. However, the address of a customer who did not make an election of confidentiality is not confidential under section 182.052, and the department may not withhold it under section 552.101 on that ground. The department must release the remaining information at issue.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

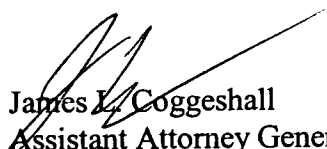
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/seg

Ref: ID# 222861

Enc. Submitted documents

c: Mr. Hubert M. Cook  
522 North Austin Street  
Webster, Texas 77598  
(w/o enclosures)